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F.#2012R01872

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June 9, 2014

By Hand and ECF

The Honorable Dora L. Irizarry
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

    Re: United States v. John Sampson
       Criminal Docket No. 13-269 (S-2)(DLI)

Dear Judge Irizarry:

    The government respectfully submits this letter to request the following trial schedule in the above-referenced matter: (1) distribution of juror questionnaires on Tuesday January 27, 2015, and (2) voir dire and commencement of trial on Monday, February 9, 2015. Defense counsel Nick Akerman, Esq., and Joshua Colangelo-Bryan, Esq., who seek a later trial date because of the defendant's potential obligations as a New York State Senator, have informed the undersigned counsel that they will write the Court in opposition to this request. Additionally, the parties jointly move for exclusion of time under the Speedy Trial Act until September 4, 2014.

I.   Trial Date

    Under federal law, it is in the interest of both the government and the public that criminal matters proceed to to trial without undue delay. See, e.g., United States v. Breen, 243 F.3d 591, 594 (2d Cir. 2001) (noting unqualified public interest in "ensuring a quick resolution of criminal trials" (quoting United States v. Kelly, 45 F.3d 45, 47 (2d Cir. 1995)). Because of the public interest in the timely resolution of criminal charges, exclusions of time under the Speedy Trial Act are authorized for various reasons "in the interests of justice," such as the complexity of the case and the ability of counsel to prepare for trial. See 18 U.S.C. § 3161(h)(7)(B). Notably, the Speedy Trial Act does not authorize exclusions of time on the basis of the defendant's personal or professional convenience.

In this case, a grand jury returned the initial indictment against the defendant on April 29, 2013, and oral argument on the defendant's pretrial motions is scheduled for September 4, 2014. Absent any compelling reasons for further delay, the government believes that this matter should be scheduled for the soonest available window in the Court's calendar, which chambers has informed the government is in February 2015.

Based on communications from Messrs. Akerman and Colangelo-Bryan, the government understands that the defendant seeks an April 2015 trial date because of his possible professional obligations as a New York State Senator. However, for the reasons noted above, any proposed delay solely for the professional convenience of the defendant should be rejected. Further, because the defendant faces both primary and general elections before February 2015, his basis for delaying the trial is entirely speculative. Moreover, should the defendant be convicted of any of the alleged crimes, he will automatically be removed from office by operation of New York State law. See Public Officers Law § 30(e). It would therefore be inappropriate to further delay the defendant's trial solely so he could continue to exercise the powers of an office that he would be barred from holding if convicted. See Zedner v.United States, 547 U.S. 489, 501 (2006) (stating that one of the objectives of the Speedy Trial Act is to "prevent[] extended pretrial delay from impairing the deterrent effect of punishment").

II.   Exclusion of Time

At the last status conference, the Court excluded time under the Speedy Trial Act until August 8, 2014, which was then the contemplated date of oral argument on the defendant's pre-trial motions. As the oral argument has been postponed until September 4, 2014, the parties jointly request exclusion of time until September 4, 2014, on the bases of the prior complex case designation and the contemplated pretrial motion schedule.

Respectfully submitted,

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